IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 15502 of 2004

Between:

Smt. N. Kalavathi, W/o. Late N. Narahari,
R/o. 10-2-523, Mehdipatnam, Hyderabad - 500 028.

... PETITIONER

AND

1 Government of Andhra Pradesh, Rep by its Principal Secretary,
Municipal Administration and Urban Development Department, Secretariat

Buildings, Hyderabad.
2 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.
3 The Additional Commissioner, Circle-3, Municipal Corporation of Hyderabad.
Opp. G.P.O., Abids, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, of Mandamus declaring the action of the respondents in making attempts to demolish the house property of the petitioner bearing Municipal H.NO. 3-6-139/1, Liberty Road, Himayat Nagar, Hyderabad - 500 027, without following the procedure laid down in the statutes such as Hyderabad Municipal Corporations Act, 1955 and the Land Acquisition Act, 1894 as bad, illegal, arbitrary, capricious, without jurisdiction, violative at principles of natural justice and Art.300-A of the Constitution of India and also contrary to the judgment rendered by a Division Bench

of this Hon'ble High Court reported in 2001 (3) ALD 173(DB), and pass

Counsel for the Petitioner: MR.A.GOPALAKRISHNAMACHARYULU

Counsel for the Respondents: GP FOR MUNCIPAL ADMN. & URBAN DEV.

The Court at the admission stage made the following Order:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Municipal Corporation of Hyderabad. Both the counsel agreed to dispose of the Writ Petition in terms of the order passed by the Division Bench in W.P.No.21198 of 1997 and batch, dated 03-02-1998.

2. The petitioner claims to be the owner and possessor of the shop bearing No.3-6-139/1, Liberty Road, Himayatnagar, Hyderabad having got the land as a gift from her mother on 10-10-1980 and that her name has been mutated in all government records as the owner of the house. While so, the respondent officials orally instructed the tenant to vacate the premises to enable the Corporation to demolish the shop for the purpose of road widening.

3. When the M.C.H. undertook to widen the roads and issued notices, several writ petitions were filed before this Court, which were disposed of with certain guidelines. In W.P.No.21198 of 1997 and batch dated 03-02-1998 this Court categorically held that when the Municipal Corporation of Hyderabad proceeds with the road widening, they are bound to follow the procedure contemplated under Sections 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'). If the owner fails to give consent, the Corporation has to necessarily initiate the proceedings under the Land Acquisition Act.

4. Having regard to the same the Writ Petition is disposed of with a direction to the respondents not to demolish the shop belonging to the petitioner without either following due process of law or private

negotiations, as the case may be.

The Writ Petition is accordingly disposed of. No costs.

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A. **GOPAL REDDY, J**

August 31, 2004

MRR/MURTHY

To:

1 Government of Andhra Pradesh, Rep by its Principal Secretary,
Municipal Administration and Urban Development Department, Secretariat

Buildings, Hyderabad.
2 The Commissioner, Municipal Corporation of Hyderabad, Tank Bund,

Hyderabad.
3 The Additional Commissioner, Circle-3, Municipal Corporation of Hyderabad.
Opp. G.P.O., Abids, Hyderabad.

4 Two C.C.s to the G.P. for Municipal Admn. & Urban Development,

High Court Buildings, Hyderabad. (OUT).

5 Two C.D. Copies.